

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JACK ROBINSON,

Plaintiff,

-against-

A. JIMMINEZ, Bureau of Prisons Employee,

Defendant.

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NICHOLAS G. GARAUFIS, United States District Judge.

NOT FOR PRINT OR
ELECTRONIC PUBLICATION

ORDER

08-CV-1193 (NGG) (LB)

Pro se plaintiff Jack Robinson (“Plaintiff”) filed the above-captioned complaint in the United States District Court for the Northern District of New York (“N.D.N.Y.”) on February 27, 2008, from whence it was transferred to this court by Order dated March 4, 2008. (Docket Entry # 1.) Plaintiff has previously filed another civil action in the N.D.N.Y. that has been transferred to this court and assigned docket number 08-CV-0902 (NGG) (LB). On March 7, 2008, Plaintiff filed an amended complaint in that action, which is pending before the court. The instant complaint is nearly identical to the March 7, 2008 amended complaint filed in No. 08-CV-0902-(NGG) (LB).

The only discernible difference between the instant complaint and Plaintiff’s amended complaint filed in No. 08-CV-0902 (NGG) (LB) is that the instant complaint includes a “Motion to modify or terminate supervised release.” (Docket Entry # 1, Attachment # 4.) In this motion, Plaintiff requests the termination of his term of supervised release: “Defendant feels continued supervised release will empower the government to act egregiously and, further supervision is superfluous, and punitive.” Plaintiff seems to be suggesting that the defendants in his ongoing civil litigation may use his continued supervision as an opportunity to retaliate against him. Plaintiff’s motion, however, is inappropriate in the context of his pending civil-rights action.

Any challenge to his sentence may only be heard in the criminal case in which it was imposed or in a petition for a writ of habeas corpus. Accordingly, Plaintiff's motion is DENIED.

As the instant complaint raises the same claims and requests the same relief as the amended complaint in 08-CV-0902 (NGG) (LB), no useful purpose would be served by the filing and litigation of this duplicate action. Accordingly, the instant complaint is dismissed, without prejudice to the litigation pending under Robinson v. Federal Bureau of Prisons, No. 08-CV-0902 (NGG) (LB). See Curtis v. Citibank, N.A., 226 F.3d 133, 138 (2d Cir. 2000) ("As part of its general power to administer its docket, a district court may stay or dismiss a suit that is duplicative of another federal court suit."). The court certifies pursuant to 28 U.S.C. § 1915(a) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

/signed/

Dated: April 4, 2008
Brooklyn, New York

NICHOLAS G. GARAUFIS
United States District Judge